

diate the subscription, upon the ground that he did not pay the ten dollars at the time of subscribing? It seems impossible to suppose that this could be done; and yet such is the effort here on the part of this complainant. After paying as agreed upon; receiving a certificate for the stock; attending and voting at corporate meetings; and acquiescing for two years, during which large sums of money are expended by the other subscribers, an effort is made to repudiate the whole proceeding and recover back the consideration paid. I think this cannot be done, and shall, therefore, dissolve the injunction; and the decision of this motion necessarily disposes of the petition* filed the 3d of March last.

THOMAS M. CROUCH ET AL. }
 vs. } MARCH TERM, 1849.
 HARRIET SMITH ET AL. }

[VALUATION OF COMMISSIONERS—WOOD CUT NOT REALTY.]

Commissioners having been appointed by the parties to value a certain privilege of cutting wood and timber, to which the widow and son of a testator were, by his will, entitled; it was HELD—that the maxim, *omnia rite esse acta presumuntur*, is applicable to the proceedings of these commissioners, and, that every fair intendment should be made in support of their acts.

The rule which applies to the valuations made by commissioners appointed to divide real estate, that such valuations, though not conclusive and liable to be rejected, if clearly shown to be erroneous, are entitled to great respect, and are not to be disturbed, unless the weight of evidence in opposition to them is decidedly preponderating, is applicable also to the valuation made by these commissioners.

Wood and timber cut down prior to the sale of the land, does not pass to the purchaser, but is severed from the inheritance, and becomes personal property.

[Walter Smith, deceased, of Prince George's county, by his will, devised certain lands to his widow, and to his son Walter,

*The petition referred to was filed by the complainants, stating that the property in dispute was lying idle and unused, and was going to decay, and praying that it might be sold, and the proceeds of sale deposited in court, to abide the issue of the cause.